

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 05-11803-MLW

SHENIA DANCY-STEWART as
Administratrix of the Estate of
EVELINE BARROS-CEPEDA, MARIA
DaROSA, and LUIS CARVALHO,
Plaintiffs,

v.

THOMAS TAYLOR, Jr., and the CITY
OF BOSTON,
Defendants.

**DEFENDANT THOMAS TAYLOR'S MOTION TO DISMISS ALL COUNTS
OF PLAINTIFFS' COMPLAINT**

The Defendant, Thomas Taylor, ("Officer Taylor") files this Motion to Dismiss all claims asserted against him by the Plaintiffs, Shenia Dancy-Stewart on behalf of the estate of Eveline Barros-Cepeda ("Plaintiff Dancy-Stewart"), Maria DaRosa ("Plaintiff DeRosa"), and Luis Carvalho (Plaintiff Carlvalho") (collectively, "Plaintiffs"). Officer Taylor seeks dismissal of all Counts Plaintiffs bring against him, including Counts I-III, V-VIII, XII, XIII, and Count XV, because the Plaintiffs have failed to state actionable claims entitling them to relief. As grounds for his Motion, Taylor asserts the following: (1) Plaintiffs' claims in Counts VIII, XIII and XV are barred by the Massachusetts Tort Claims Act; (2) Plaintiffs' claims in Count I, III, V, and VII are barred because Plaintiffs have failed to allege the requisite constitutional violation to sustain such claims; and (3) Plaintiffs' claims in Counts II, VI and XII are barred because they do not advance viable theories of liability, but additional theories of damages.

In further support of this motion, Officer Taylor submits the attached *Memorandum of Law*.

Wherefore, Officer Taylor respectfully request that this Honorable Court dismiss Plaintiffs' Complaint, with prejudice.

DEFENDANTS REQUEST AN ORAL ARGUMENT FOR THIS MOTION

Respectfully submitted,

DEFENDANT THOMAS TAYLOR,

Merita A. Hopkins
Corporation Counsel

By his attorneys:

/s/ Helen G. Litsas
Kate Cook BBO# 650698
Helen Litsas BBO#644848
Assistant Corporation Counsel
City of Boston Law Department
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(617) 635-4022 (Cook)
(617) 635-4023 (Litsas)

CERTIFICATE OF SERVICE

I, Helen G. Litsas, hereby certify that on January 23, 2005, I served the Defendant Thomas Taylor's Motion to Dismiss and Accompanying Memorandum of Law in Support Thereof by mailing a copy, postage prepaid, to the following:

Andrew Stockwell-Alpert
11 Beacon Street, Suite 1210
Boston, MA 02108

January 23, 2005
Date

/s/ Helen G. Litsas
Helen G. Litsas

CERTIFICATION PURSUANT TO LOCAL RULE 7.1(A)(2)

I hereby certify that undersigned counsel for the Defendant, Thomas Taylor, attempted to discuss the above motion with Andrew Stockwell-Alpert via telephone on January 23, 2005 both in a good faith effort to resolve and narrow the issues presented by said motion, but counsel was unable to confer or to resolve the issues prior to filing of the motion.

01/23/06
Date

/s/ Helen G. Litsas
Helen G. Litsas